

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

LAURENCE R. WAGNER,

)

8:12CV174

)

Plaintiff,

)

)

v.

)

**MEMORANDUM
AND ORDER**

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THE HONORABLE JOHN

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MCHUGH, et al.,

)

)

Defendants.

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This matter is before the court on correspondence received from Richard D. Totten on August 15, 2012, which was filed in this case as a “Notice Filed by Interested Party.” (See Filing No. [7](#).) This correspondence states, “I Richard D. Totten . . . [am] not the Richard Totten (CENWO) address unknown named as a defendant in civil action no. 8:12CV174.” (*Id.*) Because Richard D. Totten filed this correspondence with the court, he is listed as an Interested Party on the Docket Sheet and receives notice of filings in this matter.

On March 19, 2013, the court determined that Plaintiff failed to effect service of process on any of the federal agencies and employees he named as defendants. (Filing No. [23](#).) Thus, any service of summons that Richard D. Totten may have received in this matter prior to March 19, 2013, was ineffective. For this reason, it is unnecessary for the court to determine whether this matter should proceed against Richard D. Totten. In addition, it is unnecessary for Richard D. Totten to remain an Interested Party in this case at this time. However, the court cautions Richard D. Totten that this Memorandum and Order does not relieve him of any action he may need to take if Plaintiff, once again, attempts to serve him with process.

IT IS THEREFORE ORDERED that:

1. The clerk's office is directed to remove Richard D. Totten as an Interested Party in this case.
2. The clerk's office is directed to mail a copy of this Memorandum and Order to Richard D. Totten.

DATED this 3rd day of April, 2013.

BY THE COURT:

s/ John M. Gerrard
United States District Judge

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